

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

|                          |   |                           |
|--------------------------|---|---------------------------|
| UNITED STATES OF AMERICA | ) |                           |
|                          | ) |                           |
| v.                       | ) | Criminal No. 04-10384-PBS |
|                          | ) |                           |
| DANIEL KAMEN,            | ) |                           |
| Defendant.               | ) |                           |
|                          | ) |                           |

**ASSENTED -TO MOTION TO CONTINUE TRIAL**

The United States of America, by and through its attorneys, United States Attorney Michael J. Sullivan and Assistant United States Attorney Paul R. Moore, hereby respectfully requests that the court continue the trial in this matter, currently scheduled to occur on January 28, 2008. The reason for this motion is that an essential government witness is unavailable during the time when the trial is to occur (and the parties have been unable to agree to a suitable stipulation that might diminish the need for his appearance).

The witness, United States Postal Inspector Scott W. Kelley, also serves as one of only two of the Northeast Region's "Dangerous Mail Investigations Specialists." In that capacity, the United States Postal Inspection Service requires that Inspector Kelley attend the annual Dangerous Mail Investigations Training Conference, to be held in Dallas, Texas, from January 28, 2008, through February 11, 2008 (there are no alternative training sessions in the coming year).

The undersigned has explored with the Inspector the possibility that others might attend in his place (either the training or the trial) or the possibility that he could otherwise forego actual attendance during a portion of the training in order to appear at the trial, as well as to act

as an investigatory advisor to the undersigned throughout the trial. The Inspector has informed this Office that as one of only two such specialists in this region, he cannot avoid all or part of the training.

At the trial, Inspector Kelley's testimony is anticipated to involve his role in the undercover operation that led to the arrest of the defendant (as well as to coordinate the appearances of other witnesses during the trial). Inspector Kelley was a witness to conduct to which others involved in the investigation could not testify. Thus, in the view of the government, his appearance at trial is necessary for the government to have an opportunity to present its case to the jury.

The undersigned has thoroughly discussed this situation with defendant's counsel, Mr. Rankin, who agrees that the witness is both unavailable and essential (to the government's view of its case). The parties suggest that the court consider continuing the trial until a date in March of 2008, if convenient to the court.

The defendant is not in custody, nor is he restrained by electronic monitoring (conditions which appear to be working to the satisfaction of all parties, given the circumstances).

The defendant agrees to the exclusion of time through the date of the new trial (should the court agree to such a continuance) as such a delay is in the interests of justice.

The government, with the assent of the defendant, therefore, respectfully moves that this Motion be granted and that the trial be continued to a date in March of 2008 (or later, according to the schedule of the court).

Respectfully submitted,

MICHAEL J. SULLIVAN  
United States Attorney

By:

/s/ Paul R. Moore  
Paul R. Moore  
Assistant U.S. Attorney

DATE: December 11, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served, via electronic filing, upon all parties of record and participating in ECF notification, on December 11, 2007.

By: /s/ Paul R. Moore  
Paul R. Moore  
Assistant U.S. Attorney